



TOWN OF BEAUX ARTS VILLAGE

TOWN COUNCIL MINUTES

September 14, 2004

Robinson

Mayor Lowry called the meeting to order at 7:00 pm.

PRESENT: Mayor Chuck Lowry, Councilmembers Malcolm Hickey, Tom Robinson, John Rose and Judee Wells.

EXCUSED: Councilmember Betty Heckendorn.

STAFF: Clerk-Treasurer Sue Ann Spens, Water Department Supervisor Bob Durr, Town Attorney Wayne Stewart, Planning Consultant Mona Green.

GUESTS: Aaron Sharp, WABA Representative Gerri Armbruster, Julia Morse, Jan Johnston, Kevin and Jenny Kay, Steve Miller, State Senator Jim Horn, State Representative Fred Jarrett, Jeff Harvey, Andrea Tull (Sound Transit), Mia Waters (Washington Dept of Transportation, WSDOT), Mike Cotton (WSDOT), Tom Baker (WSDOT), Bernard van de Kamp, Robert Welsh, Robin Stefan, Anne Bowen, Walter Scott.

Mayor Lowry announced that Councilmember Hickey has resigned from the Council effective tonight and that Aaron Sharp has agreed to fill Councilmember Hickey's unexpired term, which expires on December 31, 2005. He then asked the Council to confirm this appointment.

MOTION: Councilmember Rose moved to confirm Mayor Lowry's appointment of Aaron Sharp to fill Councilmember Hickey's unexpired term. Councilmember Robinson seconded.

Vote: 3 For, 0 Against, 0 Abstain. Motion carries.

Mayor Lowry then thanked Malcolm Hickey for his many years of service to the Town and presented him with a framed aerial photo of the Village, as is customary. Clerk-Treasurer Spens noted that a brass plaque commemorating Mr. Hickey's service from 1990 through 2004 and suitable for affixing to this photo would be available in the next few days. Mayor Lowry added one more personal note by wishing Mr. Hickey a Happy Birthday and presenting him with a birthday cake and card from the Council.

Mayor Lowry then administered the Oath of Office to new Councilmember Aaron Sharp and welcomed him aboard.

MINUTES: Councilmember Wells moved to approve the July 27, 2004 minutes as written. Councilmember Robinson seconded.

Vote: 3 For (Wells, Robinson, Lowry), 0 Against, 2 Abstain (Rose, Sharp). Motion carried.

CLERK'S REPORT: Clerk-Treasurer Spens reported that she provided copies of the 2nd Quarter Treasurer's Reports to Councilmember Rose for review. Councilmember Rose asked that the record reflect that he has reviewed these reports and found them to be in order.

WATER BILL OVERDUE 4 MONTHS: Clerk-Treasurer Spens reported that one water account is now four months overdue and that per Ordinance No. 357, she is asking the Council for permission to notify the resident by certified mail that the water service will be disconnected if the bill is not paid by September 20, 2004. It was the consensus of the Council that Clerk-Treasurer Spens proceed with this notification.

Clerk-Treasurer Spens noted that Ordinance No. 357 is unclear as to when a bill is four-months overdue and asked the Council for authorization to re-write this ordinance for clarity. It was the consensus of the Council to grant said authority to rewrite this ordinance for clarity and to remove the Council from the loop of reviewing prior to sending a final notice. Clerk-Treasurer Spens will prepare a revised ordinance and bring it to the Council for review in the next few months.

2005 BUDGET ITEMS: Clerk-Treasurer Spens reminded the Council that the budget cycle for 2005 has begun and asked each Councilmember to give her their estimates as soon as possible. Mayor Lowry suggested that the 2005 Budget include a line item for planting trees on the ROW that is shown separately from the regular Parks Dept budget. Councilmember Wells asked if those funds should come from the Street Department or the General Fund. Clerk-Treasurer Spens suggested that although the trees will be planted on the Street ROW, it is probably more appropriate to use General Fund monies, as the Street Fund has limited revenue and funds from state-shared revenues are very restricted in their accepted use.

Councilmember Sharp asked if the duties for his position are written down somewhere so that he can review those before preparing his budget estimates. Mayor Lowry answered that Councilmember Sharp will probably need to sit down with Malcolm Hickey to get that information. Clerk-Treasurer Spens added that the 2005 – 2010 TIP will list the capital projects the Council should consider and the remainder in this fund will be based on historical averages.

WARRANTS: Councilmember Wells moved to approve the August 10, 2004 warrant list, including warrant numbers 6466 through 6492 in the amount of \$13,831.72. Councilmember Robinson seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

Councilmember Wells moved to approve the September 12, 2004 warrant list, including warrant numbers 6493 through 6518 in the amount of \$22,745.24. Councilmember Robinson seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

MARSHAL'S REPORT: No report.

WABA REPORT: WABA Representative Gerri Armbruster had to leave before the meeting reached this point.

WATER REPORT: Water Department Supervisor Durr reported that the Town was on Bellevue water for about two weeks because of a problem with the water tank's internal float switch. He noted that the problem is being addressed and should be solved shortly.

Mr. Durr also reported he is ordering a different pump for the well than originally anticipated at a savings of about \$6,000 and estimated that the old pump can be rebuilt for about \$5,000. He and Bill Beck are discussing whether there is value in such rebuilding.

Mr. Durr added that Bill Beck has almost finished rebuilding the fire hydrants.

EMERGENCY PREPAREDNESS: Councilmember Robinson asked that the record reflect his appreciation for Barb Graff, Bellevue Fire Department, for her knowledge and assistance to the Town.

DISCUSSION OF SOUND TRANSIT'S PROPOSED EVALUATION OF SOUND MITIGATION ON THE EAST CHANNEL BRIDGE: Mayor Lowry introduced Andrea Tull, Sound Transit's Project Manager for I-90.

Ms. Tull outlined briefly the project designated as Alternate R8A and explained that planning for this project has been underway since 1998. She noted that the environmental impact statement (EIS) for this project was just completed and the estimated completion date for the projected work is 2007 to 2008.

Ms. Tull then introduced Mia Waters, WSDOT Acoustics Engineer, Tom Baker, WSDOT Paving Materials Engineer, and Mike Cotton, WSDOT Program Manager.

Ms. Waters stated that the WSDOT uses noise studies developed in conjunction with the Federal Highway Administration (FHWA) to evaluate noise impacts. She then described the model methodology used by WSDOT, explained that baseline noise and traffic-count measurements were collected from several sites throughout South Bellevue in the vicinity of the East Channel Bridge, and noted that these measurements were used to calibrate and adjust the model to fit this specific project. She added that the model does not require the measurement and input of peak noise levels – rather the model is designed to estimate those peaks given average weather conditions and variable traffic counts.

Ms. Waters then explained that Federal guidelines specify the noise impact threshold as 66dB, enough noise to interfere with normal speech. She stated that these guidelines also require that potential impacts be identified by the model based on future traffic assumptions, whenever possible. She added that the Federal guidelines state that mitigation must be both feasible and reasonable and must include constructing noise walls or berms, eliminating traffic, and creating buffers. She noted that the Federal guidelines do not recognize rubberized asphalt, also known as “quiet pavement”, as an acceptable means of mitigating noise impacts.

Ms. Waters then explained that in this project, there is not much space for designing a noise buffer, and eliminating traffic is not feasible, particularly since this is an interstate highway that carries a large number of trucks. She stated that this leaves only noise walls/berms (from the FHWA list of acceptable alternatives) but the bridge is not designed for the added weight of a concrete noise wall or berm and there are other limitations on the use of such walls (e.g. wetlands, on/off ramps, etc.). She also noted that the Federal guidelines mandate a noise reduction of 7dB peak and 5dB overall to justify the added expense of the mitigation.

Tom Baker described WSDOT's experience with open-grade friction course asphalt in recent years and stated that in a cost-benefit analysis of the results of this testing, the WSDOT has chosen to continue to use dense-grade asphalt. He explained that many of the problems with open-grade asphalt stem from the use of studded tires on the highways and that these problems would also impact the use of rubberized asphalt (which is also an open course paving material) on our roads. He stated that rubberized pavement is under study in several states, including Georgia, Florida, California, and Arizona, where weather conditions are more favorable to the use of this type of pavement, yet these states are realizing 10-year lives on rubberized asphalt vs. the 16-year life of dense-grade asphalt. He added that the East Channel bridge present added concerns in that the weight of any material added to the pavement surface adds to the dead weight of the structure, that expansion joints must be modified to accommodate the additional depth of any paving overlay, and that because an open-grade paving material drains more water away from the road surface, a water collection/drainage system would have to be designed and constructed as well.

Mayor Lowry asked Mr. Baker about the relative cost of rubberized vs. asphalt-concrete pavement. Mr. Baker answered that rubberized asphalt costs approximately \$17.6 million per lane mile vs. \$7.3 million over a 16-year period.

Mayor Lowry recognized the Honorable State Senator Jim Horn, noted that Sen. Horn is chairman of the Senate Transportation Committee, and thanked Sen. Horn for his attendance at this important local meeting. Councilmember Rose then recognized the Honorable State Representative Fred Jarrett and thanked Rep. Jarrett for his attendance as well.

Andrea Tull commented that Sound Transit is committed to evaluating rubberized pavement and noise walls on the East Channel Bridge during the final design phase of the I-90 project

Mia Waters commented that one challenge with using rubberized pavement, or any open-course pavement, is that the noise-abatement properties of these pavements reduce over time as the voids in the paving that reduce noise initially fill with debris from normal use and sand used during icy conditions. She noted that rubberized asphalt was used on a project in Portland, OR and that the initial 6bD noise reduction was lost after just 6 months.

Walter Scott introduced George Way, who recently retired from the Arizona Department of Transportation (ADOT) after 35 years and who has first hand experience with rubberized asphalt. Mr. Way briefly described the reasons that prompted the ADOT to test rubberized pavement as a means of reducing skid distances on highways. He stated that the original rubberized asphalts used were prone to raveling and had significant durability problems but that changes to the relative amounts of binder and aggregate in the mix and to the thickness of the overlay reduced the effect of these problems. He noted that noise reduction was an unanticipated benefit of this paving material.

Mr. Way then explained that ADOT had to actively seek a waiver to the FHWA guidelines in order to use this material and suggested that obtaining such a waiver would no longer be as difficult as it had been in the past. Mayor Lowry asked if the FHWA approves any mixes of this paving material. Mr. Way answered that any mix may be used provided the waiver is

obtained and explained that the FHWA policy does not address road surface as having any bearing on the noise model currently used. Ms. Waters interjected that the FHWA policy does not address road surface because of concerns about the longevity of these materials.

Councilmember Rose stated that the members of the Beaux Arts Town Council do not intend to become experts on paving and paving materials but emphasized that noise from I-90 as it is currently configured is a big deal to some Beaux Arts residents and will have an even greater negative impact as the noise levels increase. He commented that as a citizen it angers him to hear of the mitigation and concessions Mercer Island residents receive in these areas while the WSDOT and Sound Transit seem immune to the concerns of this area's citizens and reluctant to address them. He added that he is very troubled that an evaluation of quiet paving (rubberized asphalt) was not a part of the open EIS process.

Jan Johnston noted that the banked alignment of this roadway focuses the sound on this neighborhood, particularly for homes at the same relative elevation as the surface of the roadway.

Councilmember Sharp asked at what times the sound readings were taken noting that at peak commute times with a south wind the noise level is significantly higher than at any other time. Mia Waters answered that measurements were taken only to calibrate the model because the model takes into account the effect of average weather conditions. She added that the FHWA guidelines that set the 66dB threshold recognize that actual conditions may at times exceed what the model would predict. She explained that all noise measurements were taken at sites up to 500 feet from the bridge deck because the effect of noise walls ends at about that distance from the noise source and that Beaux Arts sits about 2300 feet from the bridge.

Councilmember Robinson asked if the WSDOT has looked at the 20-year noise trend with respect to the 66dB threshold. Ms. Waters answered that the model evaluates trends based on traffic counts and a good rule of thumb is that each time the average daily traffic (ADT) doubles, the noise impact from the roadway increases about 3dB.

Councilmember Rose asked Senator Horn and Representative Jarrett if studded tires can/will be prohibited as a means of reducing the wear and tear on our roads. Both Senator Horn and Representative Jarrett answered that they have been working to ban studded tires for a number of years and remain hopeful.

Mayor Lowry thanked everyone for this discussion and explained that the Council needs to move on to other important business at this time.

CLOSED-RECORD PUBLIC HEARING: KAY APPEAL OF BOARD OF ADJUSTMENT DECISION ON VARIANCE #04-1: Mayor Lowry opened the closed-record hearing at 8:20 pm and asked Town Attorney Wayne Stewart to review the ground rules of this type of hearing for the Council and audience.

Town Attorney Stewart reminded participants that the Kays applied for a variance and the open-record hearing for that variance was conducted by the Board of Adjustment (the "Board") over the course of two Board meetings: the first on May 5, 2004 and the second on June 2,

2004. He noted that Board voted at the June 2, 2004 meeting to deny the variance on the basis of information reviewed and testimony heard during the public hearing. He added that after the Board's decision was made, any party of record was free to file an appeal of the Board's decision and that the Kays chose to file such an appeal. He explained that all appeals of this type are heard by the Council at a closed-record hearing, meaning that only parties of record from the open-record hearing may offer comments to the Council that are meant to clarify the existing record – no new information or new testimony may be admitted to the record unless it can be demonstrated that such information/ testimony could not be introduced at the open-record hearing. He commented that the Council has a binder that contains the Findings of the Board of Adjustment, including the exhibits used in making their decision, minutes of the meetings at which the open-record hearing was conducted, verbatim transcripts of these meetings, and correspondence received from the applicant setting forth the basis of his appeal and from other parties of record.

Mr. Stewart then stated that the test for the Council is: Is there substantial evidence to support the Board's decision based on the record as a whole? He reminded the Council that this is NOT an opportunity to second-guess the Board's decision by substituting their own opinion.

Councilmember Rose asked Town Attorney Stewart if the only choices for the Council are to affirm the Board's decision, reverse it, or send the material back to the Board for another review hearing. Town Attorney Stewart answered that those are the three choices available to the Council. He added that the parties of record in this hearing are the Kays, others who testified at the hearing, and others who submitted written comments.

Councilmember Wells noted that the burden of proof in this instance is on the applicant to show evidence refuting the Board's decision.

Town Attorney Stewart reminded everyone to identify himself or herself for the record as preserved on tape. He then asked Mr. Kay to proceed.

Kevin Kay, 2720 – 104th Ave SE, read the letter he submitted on September 7, 2004 to the Council in which he sets forth his reasons for believing that the Board's decision should be reversed, including:

- that they learned just hours before the first hearing that their architect, Jan Johnston, who was then also a member of the Board, could neither represent them at the hearing nor attend that part of the Board's meeting, due to conflict of interest issues,
- that during the hearing, another member who is an architect offered his own plans for the design, which were incompatible with the Kay's goals for their remodel, and
- that the variance was denied because alternatives to the design presented existed; however, the alternatives suggested were not feasible either structurally or economically.

He closed by asking the Council to overturn the Board's decision on this variance.

Councilmember Wells asked Mr. Kay if he felt he was given sufficient time to present the case supporting his variance. Mr. Kay answered that the time allotted was sufficient but the Boardmembers minds seemed to be made up and a decision reached after the May 5th meeting reminding everyone that this was the meeting at which his architect was not allowed to present his variance or answer questions.

Mayor Lowry asked Planning Consultant Mona Green to present her staff report. Ms. Green noted that she prepared a memo dated September 7, 2004 in which she presented the chronology of this variance and that this report was prepared prior to her seeing the additional correspondence from Mr. Kay and Jan Johnston. She then gave a brief summary of report and concluded by noting that her original staff reports to the Board supported the granting of this variance.

Councilmember Sharp noted that the Board denied the Kay's variance based on Criterion 5, which requires that the variance be "the minimum necessary to permit the owner reasonable use of the property." He also noted that Jan Johnston's May 10, 2004 letter (marked Exhibit D. to the Board's Findings) discusses five different options that the Kays considered and the reasons for choosing the option requested in their variance application. He asked Ms. Green if considering five options is sufficient to fulfill Variance Criterion #5. Ms. Green answered that the ordinance does not stipulate a minimum number of options that must be considered to satisfy this criterion. She explained that a common rule-of-thumb used by planners is to assess the impact of the chosen option and, if the impact is minimized and the design maintains much of the current footprint of the structure, the general assumption is to support the applicant's request. She commented that evaluating the design itself is beyond the scope of her duties and those of the Board's.

Councilmember Wells stated that she believes the Board needs to evaluate the options presented in each application in order to determine whether alternatives to these options exist and that they add value to the process when they discuss these alternative options. Ms. Green agreed that this is true in many situations but in this case the variance involves a garage, which is limited by access issues in the places it can be located on the property. She added that the Kays are not looking to "max out" the amount of house on their lot.

Robin Stefan, 10620 SE 27th Pl, commented that she thinks Boardmember Kevin Peterson was attempting to show that other options exist and not to foist a redesign on the Kays.

Councilmember Robinson asked if Kevin Peterson's ideas were presented during the open public discussion or after the discussion was closed. Kevin Kay answered that Mr. Peterson's ideas were presented after the discussion was closed. Councilmember Robinson stated that he thinks denying the applicant an opportunity to address the alternatives is unfortunate, even inappropriate.

Steve Miller, 10607 SE 27th Pl, stated that he was not present at the first hearing but came to the second hearing representing Ruth Cowan (his mother-in-law) and her interests as the neighbor to the south. He commented that it was clear to him at the second hearing that no decision had been reached on this variance and that no deliberations from the first hearing were considered final. He noted that, as stated in his letter to the Council, he is sympathetic to the needs of property owners to find a balance between the use of their property and the need to maintain space between neighbors, hence the test that the variance be the minimum necessary to permit reasonable use of the property. He concluded that a garage is considered a reasonable use and so the focus must be on whether the location of that garage is appropriate. He stated

that he has problems justifying this variance as the minimum necessary and does not believe there is enough justification to overturn the Board's decision to deny this variance.

Jan Johnston stated that she does not believe the Kays got a fair hearing because she was neither allowed to present their application nor able to rebut any suggested design alternatives at the first hearing. She then described the inadequacies of the existing home and explained that the applicant is in something of a Catch-22: in order to remodel their home to meet their needs, the Zoning Code requires them to build a garage, but they cannot build a garage without tearing down much (if not all) of the house if this variance is denied.

Councilmember Wells asked Ms. Johnston if she had an opportunity during the second hearing to rebut the design alternatives discussed at the first hearing. Ms. Johnston answered no, once the Board stops hearing public testimony and begins their deliberations the public may no longer offer comments unless asked a direct question.

Ms. Johnston then stated that the question is not if she or the Kays had the opportunity to rebut the discussion of design alternatives but of what is reasonable to expect a homeowner to do in satisfying Criterion #5. She commented that Planning Consultant Mona Green has never recommended the granting of a variance before this one because she applies the variance criteria very strictly yet the Board has granted a number of these variances that Ms. Green recommended be denied.

Councilmember Rose asked Ms. Green if one alternative might have been for the Kays to request a variance from the requirement to build a garage at all. Ms. Green answered yes, because the current zoning code requires all major reconstruction to include a two-car garage.

Councilmember Rose then noted that Ms. Johnston's letter of May 10, 2004 states that for between \$30,000 and \$58,000, the Kays could build a one-car garage without a variance in the footprint of the former garage (now used as living space) and asked Ms. Johnston if this statement is correct. Ms. Johnston answered yes and added that the letter also points out that this is not economically feasible.

Councilmember Rose asked if Ms. Green considered this statement in her review. Ms. Green answered yes but added that economic criteria are not part of the variance process in Beaux Arts. Councilmember Rose asked why Ms. Johnston's statement did not answer the question posed by Criteria #5 as "the minimum necessary to permit the owner reasonable use of the property". Ms. Green answered that if just spending more money were always the answer then the answer to all variance requests would be to tear down the house and make it comply. Councilmember Rose asked if Ms. Green thought that the cost stated (of between \$30,000 and \$58,000) implied that the house would have to be torn down. Ms. Green answered no but that she thought it implied a significant level of demolition.

Steve Miller pointed to several sections of the verbatim transcript in which there were discussions about alternatives and added that he feels cost must be an integral part of that discussion, because everyone is working within a budget, though some may be larger than others.

Councilmember Rose asked if there is anything in our town policies that states a preference for preserving existing houses vs. tearing down and rebuilding them. Ms. Green answered that the Comprehensive Plan may be construed as expressing a preference for preserving existing homes as a means of maintaining the character of the Village but there is nothing codified to that effect.

Councilmember Sharp asked if the Board normally has five members. Town Attorney Stewart answered yes. Councilmember Sharp noted that the vote on Criterion #5 was tied at 2 voting for granting and 2 voting against and asked if the case should be sent back to the Board for reconsideration now that they have a fifth (and tie-breaking) member. Town Attorney Stewart reminded Councilmember Sharp that the Council may not substitute its judgment for the Board's.

Councilmember Rose asked Town Attorney Stewart to remind the Council of their options. Town Attorney Stewart stated that the Council has the option of:

- remanding the request back to the Board for reconsideration,
- affirming the Board's decision if there is sufficient evidence to support it as being reasonable in light of the record, or
- reversing the Board's decision if there is insufficient evidence to support it.

Councilmember Sharp asked how "reasonable" is defined. Town Attorney Stewart answered that the Board's decision is considered reasonable if it makes sense given the evidence they heard and does not mean that the Council necessarily agrees with the decision.

Mayor Lowry asked if the Council had any more questions. As they did not, he asked Mr. Kay for a closing statement.

Kevin Kay stated that in his review of the record, it doesn't appear to him that the Board considered all of the ramifications of the alternatives they were discussing, e.g. moving a structural wall in order to move the garage an additional two feet from the south property line.

Mayor Lowry closed the public hearing at 9:25 pm and asked the Council to begin their deliberations.

Councilmember Wells began by stating that she is sympathetic to the applicant's plight since they have a small house on a small lot but noted that the Board is charged with balancing the needs of the applicant with those of the entire Town. She added that Ms. Johnston's letter of May 10, 2004 sets forth alternatives that reduce the needed variance even though they do so at added expense to the applicant.

Councilmember Rose commented that this case is difficult for him, because other variances have been granted but added that he feels there must be a compromise somewhere: either allow the remodel without requiring a garage, add a smaller garage to encroach less, or require a full remodel. He noted that he is not convinced that the alternatives suggested by the Board are viable but that Jan Johnston's letter of May 12, 2004 sets forth other alternatives that are. He added that he is hung up on the fact that cost is not one of the criteria.

Councilmember Robinson stated that it is his understanding that the Council's job here is to judge whether the Board missed something in reaching their decision on this matter. Town Attorney Stewart answered that while he wouldn't phrase the task in that way, that is probably a good layman's definition.

Councilmember Robinson then stated that he has a problem with this matter only because it is the only variance that Planning Consultant Green has recommended granting and the Board then denying it. He noted that he is not worried that this action would set any precedent nor is he worried about the effect that granting this variance would have on the rest of the Town but added that it is not his job to overturn the Board's decision based on his personal preference.

Councilmember Sharp commented that he feels the applicant's architect presented a number of alternatives that were considered, that they chose the alternative they feel is the minimum necessary, that the Town's expert staff reviewed this application and concluded that the applicant's request fulfilled all the criteria for the granting of a variance.

MOTION: Councilmember Wells moved to support the Board of Adjustment's decision with respect to Variance #04-1. Councilmember Rose seconded.

Vote: 3 For, 1 Against (Sharp), 0 Abstain. Motion carried.

PROPOSED ORDINANCE NO. 326 ADOPTING ALL FEDERAL AND STATE LAWS PERTAINING TO BALD EAGLES: Mayor Lowry noted that Town Attorney Stewart drafted this ordinance for the Town based on ordinance language used in Mercer Island.

Councilmember Rose noted that the Town and its residents are governed by the state and Federal rules whether we pass this ordinance to adopt them or not. He asked if there is some other means of informing Town residents of the state and Federal rules that would ensure that everyone who needs to know what the rules are and how they apply could be notified.

Clerk-Treasurer Spens offered that the Town's permitting documents will be updated to include this information and the website already has a link to the Department of Fish & Wildlife rules.

MOTION: Councilmember Robinson moved to adopt Ordinance No. 326 adopting all Federal and state laws pertaining to bald eagles. After a brief discussion, Councilmember Robinson withdrew his motion.

It was the consensus of the Council to pursue educating Town residents on the requirements of the existing Federal and state rules rather than passing local legislation.

PROPOSED RESOLUTION NO. 211 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE McANDREWS GROUP FOR PROVIDING CODE SERVICES AGENCY, BUILDING OFFICIAL, ENGINEERING AND PLANNING SERVICES: Mayor Lowry opened the discussion by reminding the Council that this item was on the agenda in July and was tabled until Clerk-Treasurer Spens could obtain comments from citizens on their experiences working with The McAndrews Group. Clerk-Treasurer Spens noted that she inserted a notice in the Town newsletter and on the Town website soliciting

comments from residents and received only two, both of which were positive comments about Ms. Green's professionalism.

Councilmember Rose noted that one of his neighbors had expressed frustration in trying to connect with staff members at McAndrews to get answers to their questions.

Councilmember Sharp noted that the language of the contract had some problems, particularly errors in cross-references and references to the Uniform Building Code, which should probably be changed to the Town Building Code so that it remains consistent with whatever codes the Town adopts.

It was the consensus of the Council that Mayor Lowry discuss these problems with Joe Willis of The McAndrews Group and have Mr. Willis submit a modified contract for Council review and approval.

RESOLUTION NO. 212 (now 211) AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT FOR JAIL ADMINISTRATION: Clerk-Treasurer Spens noted that this Resolution will now be number as "211" (due to the tabling of Resolution No. 211 above). She then reminded the Council that this Interlocal Agreement came before them earlier this year and that they had chosen to table its approval until Town Attorney Stewart advised to proceed. She stated that Town Attorney Stewart has now given the okay to execute this Interlocal Agreement.

MOTION: Councilmember Rose moved to adopt Resolution No. 211 authorizing the Mayor to execute an Interlocal Agreement for Jail Administration with the named Cities and Towns within King County. Councilmember Robinson seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

MAYOR AND COUNCILMEMBER REPORTS:

Mayor Lowry reported that at the last Mayors Meeting a representative from A Regional Coalition for Housing (ARCH) presented Beaux Arts and the other four Points Cities with awards in recognition of their support of affordable housing on the Eastside.

Mayor Lowry commented that he told the other mayors at the Mayors Meeting about the Quiet Pavement trials in Arizona and Beaux Arts' interest in convincing WSDOT to test this material on the East Channel Bridge. He reported that they are willing to support Beaux Arts in this endeavor.

Councilmember Rose asked that the record reflect the Council's appreciation for Walter Scott's efforts on behalf of the citizens of Beaux Arts and the surrounding area who are affected by the noise on the East Channel Bridge. Mayor Lowry will write a note to Mr. Scott expressing that appreciation.

Councilmember Wells reported that Robin Stefan is planning the next "Ivy Attack" project at the Town's entrance on 108th Ave SE and SE 29th St. She estimates that the project will cost about \$300-400 for plants and \$100 for bark. She also reported that Ms. Stefan is helping her

to organize the next Town clean up scheduled for November 6, 2004. She commented that they would be evaluating locations for planting trees and estimating the cost to purchase them before the next Council meeting.

Councilmember Robinson stated that he would like the Council to review the current franchise with Rabanco, particularly regarding yard waste, as he believes that Bellevue's franchise agreement with them is much better than ours. Clerk-Treasurer Spens will circulate a copy of the agreement for Council review at the October meeting.

Councilmember Rose reported that he has become concerned with the number of residents who are forced to move out of the Village when they sell their homes to downsize and that he would like the Mayor to create a committee of interested parties to investigate some ideas for developing housing that would allow these residents to remain in the Village while still downsizing. It was the consensus of the Council that this idea be discussed further at a future meeting.

NEXT MEETING: Clerk-Treasurer Spens reminded the Council that their next meeting is scheduled for October 12th at Councilmember Rose's house. Since Councilmember Rose will be out of town in October, she asked if another Councilmember could host this meeting. Councilmember Sharp offered to host the October 12th meeting.

ADJOURN: Councilmember Wells moved to adjourn the meeting at 11:20pm.

Councilmember Robinson seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens
Clerk-Treasurer